

Kyle G. Bates (299114)
SCHNEIDER WALLACE
COTTRELL KONECKY
WOTKYNs LLP
2000 Powell Street, Suite 1400
Emeryville, California 94608
Tel: (415) 421-7100
Fax: (415) 421-7105
kbates@schneiderwallace.com

Attorney for Plaintiffs

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

CASEY BAIR, *et al.*,

Plaintiffs,

vs.

BAYER CORP.; BAYER HEALTHCARE
LLC; BAYER ESSURE INC., (F/K/A
CONCEPTUS, INC.); BAYER HEALTHCARE
PHARMACEUTICALS, INC.; and DOES 1-10,
inclusive,

Defendants.

) Case No. 3:17-cv-01992-WHA

)
) **JOINT STIPULATION TO**
) **REMAND; [~~PROPOSED~~ ORDER]**

) Honorable William Alsup
) Date: None Set
) Time:
) Place: San Francisco Courthouse, 450
) Golden Gate Avenue, 19th Floor, Courtroom
) 8, San Francisco, California 94102

**JOINT STIPULATION TO REMAND;
CASE NO. 3:17-CV-01992-WHA**

1 Plaintiffs Casey Bair, *et al.*, and defendants and specially-appearing defendants Bayer Corporation,
2 Bayer Essure Inc., Bayer HealthCare LLC, and Bayer HealthCare Pharmaceuticals Inc. (collectively,
3 “Bayer”), hereby stipulate and agree as follows:

4 1. Plaintiffs filed their complaint on February 23, 2017, in the Superior Court for the
5 State of California, County of Fresno. In their complaint, Plaintiffs asserted claims involving the
6 Essure® Permanent Birth Control System (the “Essure® Device”).

7 2. On April 5, 2017, the Coordination Trial Judge of the Superior Court of the State of
8 California, County of Alameda, granted Plaintiffs’ petition for coordination for pretrial purposes of
9 add-on cases with the Judicial Council Coordination Proceeding (“JCCP”) 4887.

10 3. On April 10, 2017, Bayer removed the matter from the Alameda County Superior
11 Court to the United States District Court for the Northern District of California.

12 4. Bayer filed its Motion to Dismiss on April 17, 2017, on the grounds of federal
13 preemption, among other grounds.

14 5. On May 1, 2017, briefing on Bayer’s Motion to Dismiss and Plaintiffs’ anticipated
15 Motion to Remand was stayed pending this Court’s decision in a related case pending before this
16 Court involving the Essure® Device, captioned as *Elizabeth Ann Sangimino, et al. v. Bayer Corp., et*
17 *al.*, Case No. 3:17-cv-01488-WHA.

18 6. On May 9, 2017, Plaintiffs moved to remand this action to the Superior Court of
19 Alameda County, State of California, pursuant to 28 U.S.C. § 1447, on the grounds that this Court
20 lacks jurisdiction over this action.

21 7. On June 9, 2017, this Court granted Plaintiffs’ Motion to Remand in the *Sangimino*
22 matter and denied the Motion to Dismiss as moot.

23 8. The parties have met and conferred and agree to remand this case to the Alameda
24 County Superior Court.

25 9. The parties thus respectfully ask the Court to enter an order remanding this case to
26 state court based on the stipulation of the parties.
27
28

1 IT IS SO STIPULATED.

2
3 Dated: June 16, 2017

SIDLEY AUSTIN LLP

4
5 By: /s/ Alycia A. Degen

Alycia A. Degen

6 Bradley J. Dugan

7 *Attorneys for Defendants and Specially*
8 *Appearing Defendants*

9 Bayer Corporation, Bayer HealthCare LLC,
Bayer Essure Inc., and Bayer HealthCare
Pharmaceuticals Inc.

10 Dated: June 16, 2017

SCHNEIDER WALLACE COTTRELL
KONECKY WOTKYNs

11
12 By: /s/ Kyle G. Bates

Kyle G. Bates

13 *Attorneys for Plaintiffs*

14 Casey Bair, *et al.*

FILER'S ATTESTATION

Pursuant to Local Rule 5-1(i)(3), regarding signatures, Kyle G. Bates hereby attests that concurrence in the filing of this document has been obtained from counsel for Defendants.

Dated: June 16, 2017

By: /s/ Kyle G. Bates
Kyle G. Bates

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing document with the Clerk of the Court for the United States District Court, Northern District of California, by using the Court's CM/ECF system on June 16, 2017.

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the Court's CM/ECF system.

/s/ Kyle G. Bates
Kyle G. Bates

~~PROPOSED~~ ORDER

PURSUANT TO THE PARTIES' STIPULATION, and for good cause shown, IT IS ORDERED THAT Bair v. Bayer Corporation, Case No. 3:17-cv-01992-WHA, be remanded to the Superior Court of the State of California, County of Alameda.

IT IS SO ORDERED.

Dated: June, 19, 2017.



Honorable William Alsop